

# MEMORANDUM

July 20, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PETERSON & BRADFORD  
Richard Berberian, Esq.

BRIAN T. CHU  
Senior Deputy County Counsel  
General Litigation Division

RE: Regina Reeves v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. PC036311

DATE OF  
INCIDENT: April 25, 2004

AUTHORITY  
REQUESTED: \$50,000

COUNTY  
DEPARTMENT: Department of Parks and Recreation

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## CLAIMS BOARD ACTION:

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Approve

☐

Disapprove

☐

Recommend to Board of  
Supervisors for Approval

\_\_\_\_\_, Chief Administrative Office  
**ROCKY A. ARMFIELD**

\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on \_\_\_\_\_, 2006

## SUMMARY

This is a recommendation to settle for \$50,000 the lawsuit brought by Regina Reeves seeking damages for injuries she received on April 25, 2004, when she fell on a concrete walkway in El Cariso Park, in Sylmar.

## LEGAL PRINCIPLE

The County may be held liable for damages caused or contributed to by a dangerous condition of public property.

## SUMMARY OF FACTS

On April 25, 2004, at approximately 4:00 p.m., Mrs. Reeves was walking on a concrete walkway in El Cariso Park. El Cariso Park is a County park that is supervised by County employees. Azteca Landscape, Inc., ("Azteca") has a contract with the County to perform groundskeeping services at El Cariso Park, including conducting inspections and reporting unsafe conditions.

Mrs. Reeves tripped against the raised edge of a concrete walkway section, and allegedly fell on her head and hands. She was transported by ambulance to a hospital. She claims to have neck and back pain, numbness to her hands and arm pain as result of the incident.

The section of the walkway over which Mrs. Reeves tripped measured approximately four feet by four feet and was displaced from an adjacent concrete section by one-half to two inches in height. There were, however, no reports from either the public or Azteca concerning the condition of the concrete walkway, nor any prior reports of injuries caused by the condition.

Mrs. Reeves contends that the uneven section of concrete walkway existed in a dangerous condition, because it presented a tripping hazard of which the County knew or should have known through a reasonable inspection. She also contends that Azteca negligently performed its groundskeeping duties.

## DAMAGES

Mrs. Reeves claims damages for medical services and treatment, which included a spinal discectomy and fusion of a portion of her back in January, 2006. The cost of medical services approximates \$100,000, which has been paid through Mrs. Reeves' health insurance carrier. She has been on full disability status since January 19, 2005. She claims loss of past and future income at the rate of her annual salary of \$33,432.

Should this matter proceed to trial, we anticipate Mrs. Reeves will offer evidence of damages as follows:

Past medical treatment & therapy	\$100,000
Past loss of earnings	\$ 44,238
Future loss of earnings	\$233,289
Pain and suffering	<u>\$200,000</u>
TOTAL	<u>\$577,527</u>

## STATUS OF CASE

In addition to suing the County, Mrs. Reeves sued Azteca, alleging general negligence. The County also sued Azteca, on a cross-complaint, alleging contractual indemnity. Azteca was granted a summary judgment against Mrs. Reeves' complaint based upon the absence of a duty.

Approval of the proposed settlement contemplates the County dismissing its cross-complaint against Azteca, in exchange for a waiver of its costs. If the County were to continue to pursue indemnity against Azteca, depositions of approximately six employees of the County and Azteca are anticipated. The County will also expend additional fees and costs for trial preparation.

Expenses incurred by the County in defense of this matter are attorneys' fees of \$22,084 and costs of \$7,999 in cost. These expenses reflect a significant amount of work to determine Mrs. Reeves' post-surgical condition and in the prosecution of the County's cross-complaint against Azteca.

## EVALUATION

The physical condition of the concrete walkway is uncontested and can arguably be characterized as a dangerous condition. While it is unclear precisely where Mrs. Reeves tripped along the walkway section, a jury may find that it was at the highest differential point and that the uneven walkway created a significant risk of a tripping injury. The County contends that the condition was open and obvious and that Mrs. Reeves had a pre-existing degenerative spinal condition. However, if a fact finder determines that a dangerous condition existed, the County's contentions will only mitigate liability and damages. A settlement with Mrs. Reeves at this time will avoid further litigation costs and a potential jury verdict in excess of the recommended settlement amount.

Further pursuit of contractual indemnity against Azteca may not result in an outcome that would justify the additional cost. Azteca may argue that its services did not encompass an inspection of El Cariso Park and that County employees were responsible for and actually conducted the necessary inspections of the concrete walkway. A jury may split the liability between the County and Azteca, and the additional cost in pursuing contractual indemnity may exceed the County's potential award.

## RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Peterson and Bradford, in recommending a settlement of this matter in the amount of \$50,000, and dismissal of the County's cross-complaint in exchange for a cost waiver. The Department of Parks and Recreation concurs in the recommendation.

APPROVED:

  
RALPH L. ROSATO  
Assistant County Counsel  
General Litigation Division

RLR:ac